

§21.5133

38 CFR Ch. I (7–1–11 Edition)

§21.5133 Certifications and release of payments.

A veteran or servicemember must be pursuing a program of education in order to receive payment of educational assistance allowance under 38 U.S.C. chapter 32. To ensure that this is the case, the provisions of this section must be met when a veteran or servicemember is seeking such payment.

(a) *General.* VA will pay educational assistance to a veteran or servicemember (other than one pursuing a program of apprenticeship, other on-job training, or a correspondence course; one seeking reimbursement for taking an approved licensing or certification test; or one who qualifies for an advance payment) only after:

(1) The educational institution has certified his or her enrollment as provided in §21.5200(d) of this part; and

(2) VA has received from the individual a verification of the enrollment. Generally, this verification will be required monthly, resulting in monthly payments.

(b) *Apprenticeship and other on-job training.* VA will pay educational assistance to a veteran pursuing a program of apprenticeship or other on-job training only after—

(1) The training establishment has certified his or her enrollment in the training program as provided in §21.5200(d); and

(2) VA has received from the veteran and the training establishment a certification of hours worked. Generally, this certification will be required monthly, resulting in monthly payments.

(c) *Correspondence training.* VA will pay educational assistance to a veteran or servicemember who is pursuing a correspondence course or the correspondence portion of a combined correspondence-residence course only after—

(1) The educational institution has certified his or her enrollment;

(2) VA has received from the veteran or servicemember a certification as to the number of lessons completed and serviced by the educational institution; and

(3) VA has received from the educational institution a certification or

an endorsement on the veteran's or servicemember's certificate, as to the number of lessons completed by the veteran or servicemember and serviced by the educational institution. Generally, this certification will be required quarterly, resulting in quarterly payments.

(38 U.S.C. 3680(g), 3689)

(Approved by the Office of Management and Budget under control number 2900-0465)

[57 FR 38612, Aug. 26, 1992, as amended at 72 FR 16978, Apr. 5, 2007]

§21.5134 Restrictions on paying benefits to servicepersons.

The Department of Veterans Affairs may not pay benefits to a serviceperson (other than one enrolled in a course, courses or a program of education leading to a secondary school diploma or an equivalency certificate) unless he or she:

(a) Has completed 3 months of contributions to the fund or has made a lump-sum payment which is the equivalent of at least 3 months of contributions to the fund;

(b) Has agreed either to have a monthly deduction from his or her military pay, or has made a lump-sum contribution to the fund, or both, so that the 12 months participation requirement of §21.5052(a) of this part will be met; and

(c) Is serving on active duty in an enlistment period subsequent to the initial period of active duty defined in §21.5040(b)(3) of this part.

(Authority: 38 U.S.C. 3221, 3231, Pub. L. 94-502)

[45 FR 31, Jan. 2, 1980, as amended at 47 FR 51746, Nov. 17, 1982; 54 FR 49977, Dec. 4, 1989]

§21.5135 Advance payments.

VA will apply the provisions of §21.4138(a) in making advance payments to veterans and servicemembers.

(Authority: 38 U.S.C. 3241, 3680)

[64 FR 52652, Sept. 30, 1999]

§21.5136 Benefit payments—secondary school program.

(a) *Restrictions on payments.* (1) The Department of Veterans Affairs may authorize benefits to qualified enlisted servicepersons for a course, courses or

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program of education leading to a secondary school diploma or an equivalency certificate without charge to entitlement. Payments may be made only if:

(i) The individual has contributed to the fund for at least 1 month, and

(ii) The training is received while the individual is serving:

(A) The last 6 months of his or her first enlistment after December 31, 1976; or

(B) At any time after completing his or her first enlistment.

(2) An individual who is not on active duty must have been an enlisted servicemember while he or she was on active duty in order to receive benefits while enrolled in a course, courses or program of education leading to a secondary school diploma or an equivalency certificate.

(Authority: 38 U.S.C. 3231(b))

(b) *Monthly rate.* An individual pursuing a course, courses or a program of education leading to a secondary school diploma or an equivalency certificate will receive one of two monthly rates.

(1) Unless the individual notifies the Department of Veterans Affairs to the contrary, the monthly rate of his or her educational assistance allowance will be based upon his or her tuition and fees. The Department of Veterans Affairs will make no charge against the entitlement of the individual who is receiving benefits at this monthly rate. The monthly rate will be the rate of tuition and fees being charged to the individual for the course, not to exceed:

(i) \$376 for full-time training.

(ii) \$283 for three-quarter time training.

(iii) \$188 for half-time training.

(iv) \$94 for quarter-time training.

(2) The individual may elect to receive educational assistance allowance at the monthly rate provided in §21.5138. The Department of Veterans Affairs will make an appropriate charge against the individual's entitlement if such an election is made.

(Authority: 38 U.S.C. 3241, 3491)

(c) *Method of payment.* (1) If the individual's educational assistance allow-

ance is based upon the rate as determined in paragraph (b)(1) of this section, payment shall be made in a lump sum for the term, quarter or semester at the beginning of the month in which training begins.

(2) If the individual elects to have his or her educational assistance allowance computed as provided in §21.5138, payment will be made in the same manner as for any other residence training.

(Authority: 38 U.S.C. 3241)

[47 FR 51746, Nov. 17, 1982, as amended at 50 FR 19933, May 13, 1985]

§21.5137 Benefit payments and charges against entitlement for taking an approved licensing or certification test.

(a) *Benefit payments.* The amount of educational assistance allowance VA will pay to a veteran or servicemember for taking an approved licensing or certification test, if the veteran or servicemember is entitled to receive such benefit payments, will be the lowest of the following:

(1) The fee the organization or entity offering the test charges for taking the test;

(2) \$2,000; or

(3) The total remaining amount of the veteran's or servicemember's contributions to the fund and the contributions the Secretary of Defense has made to the fund on behalf of the veteran or servicemember.

(Authority: 38 U.S.C. 3222, 3231, 3232(c), 3452(b), 3689)

(b) *Charge against entitlement.* For educational assistance allowance paid for taking an approved licensing or certification test, VA will make a charge against the veteran's or servicemember's entitlement by dividing the amount paid under paragraph (a) of this section by the monthly amount as calculated under §21.5138(c). The calculation will assume that the veteran or servicemember is a full-time student.

(Authority: 38 U.S.C. 3232(c), 3452(b), 3689)

[72 FR 16978, Apr. 5, 2007]